

REMARKS

Applicants appreciate the indication of allowable subject matter in dependent claim 3, which would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

By the foregoing amendment, independent claim 3 has been written in independent form, incorporating all the limitations of the independent claim from which it depended. Accordingly, claim 3 should now be in condition for immediate allowance.

Additionally, independent claim 20 has also been amended to delete the “bordelaise sauce” from the Markush group and applicants respectfully submit that such amendment does not raise the issue of new matter.

Reconsideration of the previous rejections are respectfully requested in view of the following comments.

Claim 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fonteneau (U.S. Patent 4,597,974). The Examiner states that Fonteneau “discloses an edible wine sauce and gravy with a pH of 6.0.” The Examiner further states that “it is well known in the art that bordelaise sauce is a wine sauce.” While applicants agree that Fonteneau contains a teaching (column 6, line 33) of “a red wine sauce with a pH of 6 . . .”, by the deletion of “bordelaise sauce” from the Markush group of independent claim 20, applicants respectfully submit that Fonteneau does not establish a *prima facie* case of obviousness for the claimed invention. While it may be possible for a red wine sauce to have a pH of 6 due to the nature of the wine itself, there is no teaching of modifying any

sauce of Fonteneau to raise its pH. All that is taught in Fonteneau is that the sauce viscosity can be modified with the addition of carob-bean flour, but there is no teaching that such addition raises the pH of the resulting sauce. For the foregoing reasons, independent claim 20 is allowable over the Fonteneau reference.

Reconsideration of the previous rejection of claims 21-22 under 35 U.S.C. §103(a) as being unpatentable over Hazell (U.S. Patent 6,395,320) in view of Organesoff (U.S. Patent 5,942,270) taken with Gum (U.S. Patent 5,817,356) is respectfully requested in view of the following comments.

Hazell is cited as disclosing a two component package food product for packaging foods, such as pasta and sauce, citing column 4, lines 45-60. However, Hazell contains no teaching whatsoever of the pH values of the cooked pasta (nor rice) or a pH modified sauce. It is alleged that these deficiencies are cured by the secondary references. For example, the Examiner cites Gum as teaching a pasta that is acidified to a pH of less than 5, preferably less than 4.6, citing column 3, lines 18-24. Organesoff is relied upon to show treating green beans with a liquid containing ascorbic acid and sodium bicarbonate having a pH up to 7.2. The Examiner reasons that the treating liquid is a “sauce” because it has spices therein. The undersigned has carefully reviewed Organesoff and does not find any teaching of “spices” in the treating liquid. Moreover, the green beans are pretreated by soaking for eighteen hours at a pH of 7.2 (See, column 2, lines 35-40), however, as set forth therein, “the beans are separated from the soaking solution.” Thereafter, “a single serve dish is prepared by mixing the pretreated frozen beans with a rice mix consisting of onions, carrots, green beans and

coating sauce containing spices (not the treating liquid containing ascorbic acid and sodium bicarbonate), onions, starch and pectin (pH 7.27). Thus, the soaking “sauce” is not part of the resulting package, having been separated from the green beans before the green beans are packaged with a marinated chicken. Thus, the resulting package of Organesoff does not comprise pasta or rice with a sauce containing an edible alkaline or base substance but, rather, a coating “sauce” is found having a pH of 7.27, but not containing an edible alkaline or base substance.

Moreover, even if Organesoff et al were combined with Hazell and Gum, such a combination would only be made through use of hindsight reconstruction of the invention because there is no similarity between “green beans” or “marinated chicken” and an edible “shelf stable pasta or rice meal” that would have led one of ordinary skill in the art to make the proposed combination that the Examiner has suggested.

For the foregoing reasons, withdrawal of the rejection of claims 21 and 22 is respectfully requested.

Claims 22 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hazell in view of Gum and Fonteneau or, alternatively, as being unpatentable over Hazell in view of Hartman (U.S. Patent 5,972,408) and Gum. Each of these rejections is respectfully traversed. As with the deficiencies of Hazell with regard to claims 21 and 22 above, Hazell also does not disclose the pH of the respective components of the meal.

It is alleged that Gum teaches pasta that is acidified to a pH of less than 5, preferably less than 4.6 (citing column 3, lines 18-24), but teaches nothing about any component, such as a sauce, that would be mixed with the meal.

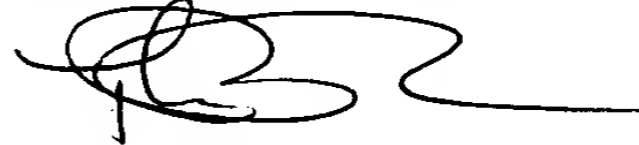
Although Fonteneau teaches an edible wine sauce and gravy with a pH of 6.0, contrary to the allegations in the Office Action, it does not meet the requirements of component b of the claimed invention.

Applicants again respectfully direct the Examiner's attention to claim 22, component b, which states "a pH modified sauce for use with said cooked pasta or rice, the sauce comprising the following: an edible added alkaline or base substance, such that said sauce's pH range are about 5.9 to about 7.2 . . . ." The claim continues that the sauce comprises "0.7-1.0% of the edible alkaline substance." Thus, although the teachings of Fonteneau show a wine sauce with a pH of 6.0, it does not teach the addition of a edible alkaline or base substance to modify the pH of the sauce. The proposed combination of Hazell, Fonteneau and Gum still does not teach or suggest the claimed invention.

Similarly, the alternative rejection of Hazell in view of Hardman and Gum suffers from the same deficiency. Although the Examiner notes that Hardman teaches a reduced fat sauce of a pH described as 4.6 to 6.5, the reference still does not teach component b insofar as it lacks the amount of added edible alkaline or base substance to modify the sauce into the recited pH range.

For the foregoing reasons, none of the references establish a *prima facie* case of obviousness for the claimed invention and, therefore, all rejections should be withdrawn and the application passed to issue, which action is earnestly solicited.

Respectfully submitted,



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Date: June 5, 2006